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10/575,871	01/29/2007	Patrick Lewis Blott	SMNPH.005APC	6837

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EXAMINER	
HAWTHORNE, OPHELIA ALTHEA	

ART UNIT	PAPER NUMBER
3772	

NOTIFICATION DATE	DELIVERY MODE
09/08/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/575,871	BLOTT ET AL.	
	Examiner	Art Unit	
	OPHELIA HAWTHORNE	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 April 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 8 and 10 - 43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 8 and 10 - 43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 April 2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *04-01-2009 and 06-01-2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to amendment/arguments filed on 04/01/2009. Currently, claims 1 - 8 and 10 are pending in the instant application. Claims 11 – 43 have been added and pending. Claim 9 has been cancelled.

Response to Arguments

Applicant's arguments with respect to claims 1 - 10 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

The drawings were received on 04/01/2009. These drawings are acknowledged and approved.

Claim Objections

1. Claims 14 and 23 are objected to because of the following informalities: In claim 14 the recitation "cleanserby" and "cleansercomprise" in claim 23 appears to be a typo. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 2, 4 – 5, 10 – 11, 14 – 16, 19 - 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Orgill et al. (US 7,494, 482 B2).

With respect to claim 1, Orgill et al. discloses an apparatus (Fig. 9) for cleansing wounds, comprising: a conformable wound dressing (110), having a backing layer (115) and ([Col. 13], line 15) which is capable of forming a relatively fluid-tight seal over at least a portion of a wound ([Col. 13], lines 15 – 17) and a cleansing means or a micropore filter (150) and ([Col. 13], lines 32 – 34) for selectively removing materials that are deleterious to a wound from the wound exudates and is configured to be positioned between the wound and the backing layer and a pump or moving device (160) for moving wound exudates from the wound and the cleansing means (150) and for moving cleansed wound exudates from the cleansing means back to the wound ([Col. 13], lines 32 – 36).

With respect to claim 2, Orgill et al. discloses the cleansing means is a single-phase system in which fluid is moved through the cleansing means (150), wherein the fluid is at least one of wound exudate (100) and irrigant (130), at least a portion of which fluid passes into, through and out of the cleansing means back to the wound bed ([Col. 13], lines 32 – 36).

With respect to claim 4, Orgill et al. discloses wherein the apparatus is operated as a circulating system, in which the fluid passes through the cleansing means one or more times in only one direction ([Col. 13], lines 18 – 20).

With respect to claim 5, Orgill et al. discloses the apparatus (as shown in Fig. 9) is operated as a reversing system such that fluid passes through the cleansing means at least once in each of the two opposing direction ([Col. 13], lines 32 - 36).

With respect to claim 10, Orgill et al. discloses a method for treating wound to promote wound healing by using the apparatus for cleansing wounds (shown in Fig. 9).

With respect to claim 11, Orgill et al. discloses an apparatus for cleansing wounds (shown in Fig. 9), comprising: a wound cover (115) configured to be positioned over at least a portion of a wound; a cleanser or micropore filter (150) configured to be positioned between the wound and the wound cover, the cleanser or micropore filter (150) adapted to selectively remove materials that are deleterious to wound healing from fluid containing wound exudate; it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138; an inlet (145) for introducing fluid into the wound cover; an outlet (via 150 and suction device) for removing fluid from within the wound cover; a recirculation path (via 140) comprising one or more conduits fluidly connecting the outlet (150) to the inlet (145); and a moving device or pump (160) for moving fluid containing wound exudate from the wound (100) and to the cleanser of micropore filter (150) and for moving cleansed fluid from the cleanser back to the wound through the recirculation path ([Col. 13], lines 32 – 36).

With respect to claim 14, Orgill et al. discloses wherein the cleanser or micropore filter (150) comprises a chamber (element 130) containing a cleansing fluid separated

from the wound exudate (100) by a permeable integer or micropore filter (150), and the cleansing fluid or the wound exudate is moved through the cleanser by the moving device.

With respect to claim 15, Orgill et al. discloses the permeable integer or micropore filter (150) is selectively permeable to materials deleterious to wound healing in the wound exudate.

With respect to claim 16, Orgill et al. discloses the permeable integer or micropore filter (150) is selectively permeable to materials beneficial to wound healing in the wound exudate.

With respect to claim 19, Orgill et al. discloses wherein the moving device (160) is integral with the wound dressing in so far as it is connected to the dressing by tubing (140).

With respect to claim 20, Orgill et al. discloses wherein the moving device is a pump (160).

With respect to claim 21, Orgill et al. discloses wherein the apparatus as shown in (Fig. 9) is configured to supply an irrigant to the wound.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 3 and 6 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. (US 7,494,482 B2) in view of Treu et al. (US 6,254,567 B1).

With respect to claim 3, Orgill et al. substantially describe the invention as claimed, see rejection to claim 1 above, except for the cleansing means is a multiple-phase system comprising a chamber containing a cleansing fluid separated from the wound exudate by a permeable integer, and the cleansing fluid is moved through the cleansing means by the moving device.

Treu et al. however, teaches a two-phase system comprising a chamber containing a cleansing fluid (44) separated from the wound exudate by a permeable integer (24), and the cleansing fluid is moved through the cleansing means by the moving device or pump (66). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. wherein the cleansing means is a multiple-phase system comprising a chamber containing a cleansing fluid separated from the wound exudate by a permeable integer, and the cleansing fluid is moved through the cleansing means by the moving device as taught by True et al. since doing so would provide continuous flow into and out of the wound.

With respect to claim 6, Orgill et al. discloses wherein the cleansing fluid (130) is the only fluid moved though the cleansing means.

With respect to claim 7, Orgill et al. discloses wherein the cleansing fluid (130), and fluid comprising the wound exudate (100) are moved through the cleansing means (150).

With respect to claim 8, Orgill et al. discloses wherein the permeable integer or micropore filter (150) and ([Col. 13], lines 32 – 33) is selectively permeable to materials deleterious to wound healing in the wound exudate. The claim limitation "the permeable integer is selectively permeable to materials deleterious to wound healing in the wound exudates" is being treated as a functional recitation. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does. The micropore filter of Orgill et al. is capable of functioning as a selectively permeable integer. (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

7. Claims 12 – 13, 17 and 25 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. et al. (US 7,494,482 B2) in view of Risk, Jr. et al. (US 6,755,807 B2).

With respect to claims 12 and 13, Orgill et al. substantially describe the invention as claimed, see rejection to claim 11 above except for further including a bleeding device for bleeding wound exudate or and said bleeding device bleeds fluid to a canister.

Risk, Jr. et al. however, teach a wound treatment apparatus (6, Fig. 9) comprising a check valve (400, Fig. 6 and evacuating tube 20) and ([Col. 8], lines 58 – 67) for bleeding wound exudate to a waste canister (26, Fig. 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a bleeding device for bleeding wound exudate to a canister as taught by Risk Jr. et al. since doing so would (1) prevent any fluid from escaping when the tubes are disengaged from the valve and (2) a waste canister for collecting wound exudates.

With respect to claim 17, Orgill substantially describe the invention as claimed, see rejection to claims 11 and 14 above, except for the moving device or pump comprises a syringe.

Risk, Jr. et al. however, teaches a wound treatment apparatus (6, Fig. 9) wherein the moving device is a syringe (24) and ([Col. 5], lines 63 – 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the pump of Orgill et al. with a syringe as taught by Risk, Jr. et al. for further delivery control.

With respect to claims 25 and 26, Orgill substantially describe the invention as claimed, see rejection to claim 24 above, except for bleeding fluid from the wound dressing with a bleed mechanism and the fluid is bled into a canister.

Risk, Jr. et al. however, teaches a wound treatment apparatus (6, Fig. 9) comprising a check valve (400, Fig. 6) and ([Col. 8], lines 58 – 67) for bleeding wound exudate into a canister (26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of treating a wound of Orgill et al. to further comprise bleeding fluid from the wound dressing with a bleed mechanism and the fluid is bled into a canister as taught by Risk, Jr. et al. since doing so would prevent any fluid from escaping when the tubes are disengaged from the bleed mechanism and (2) a waste canister for collecting wound exudates.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. et al. (US 7,494,482 B2).

With respect to claim 18, Orgill et al. substantially describe the invention as claimed, except for the moving device is portable. It would have been obvious to one having ordinary skill in the art at the time the invention was made wherein the moving device is portable, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952).

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. (US 7,494, 482 B2) in view of Swanbeck WO 84/01904).

With respect to claim 22, Orgill substantially describe the invention as claimed, see rejection to claim 14 above, except for the cleanser comprises an agent suitable for sequestering deleterious materials from the wound exudate.

Swanbeck however, teaches a device for rinsing wounds and infected skin portions (Fig. 1) comprising an agent (i.e., enzymes for digestion) suitable for sequestering materials deleterious to the wound exudate. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. by incorporating an agent to the cleanser suitable for sequestering deleterious materials from the wound exudates as taught by Swanbeck in order to accelerate wound healing.

10. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. (US 7,494, 482 B2) in view of Raees et al. (US 2003/0175798 A1).

With respect to claim 23, Orgill et al. substantially describe the invention as claimed, see rejection to claims 11 and 14 above, except for the cleanser comprises a macroscopic filter.

Raees et al. however, teaches a method for detecting single nucleotide polymorphisms in a sample using macroscopic filters [0046]. Therefore, it would have been well within the skill of ordinary artisan to substitute one known element for another that would have yielded predictable results.

11. Claims 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. (US 7,494, 482 B2)

With respect to claim 24, Orgill et al. substantially discloses a method of treating a wound, comprising: positioning a wound dressing (110) over a wound (Fig. 8a), the wound dressing comprising a backing layer (115), so that the backing layer forms a seal around at least a portion of a wound; removing fluid containing wound exudate from the wound via pressure tube (120). Orgill et al. substantially describe the invention as claimed except for cleansing the wound exudate beneath the wound dressing and returning the cleansed fluid to the wound.

In an alternative embodiment see (Fig. 9) Orgill et al. teaches cleansing the wound exudate beneath the wound dressing (Fig. 9); and returning the cleansed fluid to the wound ([Col. 13], lines 32 – 36). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the features of (Fig. 8a) and (Fig. 9) comprising cleansing the wound exudate beneath the wound dressing and returning the cleansed fluid to the wound as taught by Orgill et al. in order to accelerate wound healing.

With respect to claim 27, Orgill et al. discloses passing an irrigant fluid (130) through the wound dressing (115) into the wound (100).

12. Claims 28 – 31, 32 – 34, 36 – 40 and 42 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. (US 7,494, 482 B2) in view of Hunt et al. (US 7,381,859 B2).

With respect to claim 28, Orgill et al. substantially discloses an apparatus for cleansing wounds, comprising: a conformable wound dressing comprising a backing layer (115) capable of forming a seal over at least a portion of the wound; a filter (150) and ([Col. 13], line 33) configured to be positioned between the wound (100) and the backing layer (115), the filter configured to retain wound exudate in the space between the film and the backing layer ([Col. 13], lines 32 – 36); and an outlet tube (150, Fig. 9) for removing fluid from the wound (100). Orgill et al. substantially describe the invention as claimed except for a film configured to define a space beneath the backing layer and an upper surface of the film.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film, thus defining a space beneath layer (13) and ([Col. 5], lines 9 – 16). Examiner is broadly interpreting the two sheets of elastomeric sheets (38) as the film since it is made from polyurethane film. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a film configured to define a space beneath the backing layer and an upper surface of the film as taught by Hunt et al. since doing so would improve the ability to withdraw wound exudates from the wound as well as to reduce the likelihood that a scab formed will become attached to the absorbent material.

With respect to claim 29, Orgill et al. substantially describe the invention as claimed, see rejection to claim 28 above except for the film is attached at least partially to the backing layer.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film attached partially to the backing layer (13). Examiner is broadly interpreting the two sheets of elastomeric sheets (38) as the film since it is made from polyurethane film. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a film is attached at least partially to the backing layer as taught by Hunt et al. since doing so would improve the ability to withdraw wound exudates from the wound as well as to reduce the likelihood that a scab formed will become attached to the absorbent material.

With respect to claim 30, Orgill et al. substantially describe the invention as claimed, see rejection to claim 28 above, except for the film is configured to contact at least part of the wound.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film and is configured to contact at least part of the wound ([Col. 5], lines 9 – 16). Examiner is broadly interpreting the two sheets of elastomeric sheets (38)

as the film since it is made from polyurethane film. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a film configured to contact at least part of the wound as taught by Hunt et al. since doing so would reduce the likelihood that a scab formed will become attached to the absorbent material.

With respect to claim 31, Orgill et al. substantially describe the invention as claimed, see rejection to claim 28 above, except for the film is a flat sheet of polymeric material.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film ([Col. 5], lines 9 – 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a film, wherein the film is a flat sheet of polymeric material as taught by Hunt et al. since doing so would resist the formation of wound adhesion and therefore appropriate for placement in direct contact with the tissue surfaces within the wound and around the periphery.

With respect to claim 32, Orgill et al. substantially describe the invention as claimed, see rejection to claim 28 above, except for the film is porous.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed

from polyurethane film comprising a plurality of holes ([Col. 5], lines 48 – 50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a porous film as taught by Hunt et al. since doing so would improve the ability to withdraw wound exudates from the wound.

With respect to claims 33 and 34, Orgill et al. and Hunt et al. disclose the space between the backing layer and an upper surface of the film contains a filler or sponge (110, Fig. 8a).

With respect to claim 36, Orgill et al. substantially describe the invention as claimed, see rejection to claim 28 above, except for the film is configured to contact at least portion of the wound.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film and is configured to contact at least part of the wound ([Col. 5], lines 9 – 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a film configured to contact at least a portion of the wound as taught by Hunt et al. since doing so would reduce the likelihood that a scab formed will become attached to the absorbent material.

With respect to claim 37, Orgill et al. discloses wherein the outlet tube (150) is in fluid communication with a vacuum source (as shown in Fig. 9).

With respect to claim 38, Orgill et al. substantially discloses a method for cleansing wounds, comprising: positioning a wound dressing (115) over a wound (100), the wound dressing comprising a backing layer that forms a seal around at least a portion of the wound removing fluid from the wound via (150, Fig. 8) using negative pressure (Fig. 9); and filtering via (micropore filter) and ([Col. 13], line 34) at least a portion of the fluid to retain wound exudate in the space defined by the film beneath the backing layer. Orgill et al. substantially describe the invention as claimed except for a film beneath the backing layer defining a space between the backing layer and an upper surface of the film capable of containing wound exudate from the wound.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film, thus defining a space beneath layer (13) and ([Col. 5], lines 9 – 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a film configured to define a space beneath the backing layer and an upper surface of the film as taught by Hunt et al. since doing so would improve the ability to withdraw wound exudates from the wound as well as to reduce the likelihood that a scab formed will become attached to the absorbent material.

With respect to claim 39, Orgill et al. discloses recirculating unfiltered fluid back to the wound ([Col. 13], lines 32 – 36).

With respect to claim 40, Orgill et al. substantially describe the invention as claimed, see rejection to claim 38 above, except for the film is porous.

Hunt et al. however, teaches a system for temporary closure of a wound comprising a dressing having an upper foam layer (13) and a lower foam layer (36); the lower foam (36) is enveloped within two sheets of elastomeric sheets (38) constructed from polyurethane film comprising a plurality of holes ([Col. 5], lines 48 – 50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Orgill et al. to further comprise a porous film as taught by Hunt et al. since doing so would improve the ability to withdraw wound exudates from the wound.

With respect to claims 42 and 43, Orgill et al. discloses the wound dressing comprises a filler (110).

13. Claims 35 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orgill et al. (US 7,494, 482 B) and Hunt et al. (US 7,381,859 B2) in view of Brady et al.

With respect to claims 35 and 41, Orgill et al. and Hunt et al. substantially describe the invention as claimed, see rejection to claims 28 and 38 above, except for the filter comprises a polymeric membrane.

Brady et al. however, teaches a catheter system for transporting an embolic protection filter (51, Fig 10c) through a vasculature wherein the filter may comprise a polymeric membrane [0171]. Therefore, it would have been obvious to one of ordinary

skill in the art to modify the filter of Orgill et al. in view of Hunt et al. to comprise a polymeric membrane as taught by Brady et al. since doing so would provide the necessary strength and resiliency needed for placement within a wound.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OPHELIA HAWTHORNE whose telephone number is (571)270-3860. The examiner can normally be reached on Monday - Friday, 7:30 AM - 5:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ophelia Hawthorne/
Examiner, Art Unit 3772
/Kevin C. Sirmons/
Supervisory Patent Examiner, Art Unit 3767